
HOUSE BILL 2465

State of Washington 60th Legislature 2008 Regular Session

By Representatives Warnick, O'Brien, Blake, Campbell, and Kelley

Prefiled 12/18/07. Read first time 01/14/08. Referred to Committee on Judiciary.

1 AN ACT Relating to collection of legal financial obligations by
2 county clerks; and amending RCW 9.94A.7606, 9.94A.7607, 9.94A.7608, and
3 9.94A.7609.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9.94A.7606 and 1991 c 93 s 7 are each amended to read
6 as follows:

7 (1) The department or county clerk may issue to any person or
8 entity an order to withhold and deliver property of any kind, including
9 but not restricted to, earnings that are due, owing, or belonging to
10 the offender, if the department or county clerk has reason to believe
11 that there is in the possession of such person or entity, property that
12 is due, owing, or belonging to the offender. Such order to withhold
13 and deliver may be issued when a court-ordered legal financial
14 obligation payment is past due:

15 (a) If an offender's judgment and sentence or a subsequent order to
16 pay includes a statement that other income-withholding action under
17 this chapter may be taken without further notice to the offender.

18 (b) If a judgment and sentence or a subsequent order to pay does
19 not include the statement that other income-withholding action under

1 this chapter may be taken without further notice to the offender but
2 the department or county clerk has served a notice on the offender
3 stating such requirements and authorizations. The service shall have
4 been made by personal service or any form of mail requiring a return
5 receipt.

6 (2) The order to withhold and deliver shall:

7 (a) Include the amount of the court-ordered legal financial
8 obligation;

9 (b) Contain a summary of moneys that may be exempt from the order
10 to withhold and deliver and a summary of the civil liability upon
11 failure to comply with the order; and

12 (c) Be served by personal service or by any form of mail requiring
13 a return receipt.

14 (3) The department or county clerk shall also, on or before the
15 date of service of the order to withhold and deliver, mail or cause to
16 be mailed by any form of mail requiring a return receipt, a copy of the
17 order to withhold and deliver to the offender at the offender's last
18 known post office address, or, in the alternative, a copy of the order
19 shall be personally served on the offender on or before the date of
20 service of the order or within two days thereafter. The copy of the
21 order shall be mailed or served together with an explanation of the
22 right to petition for judicial review. If the copy is not mailed or
23 served as this section provides, or if any irregularity appears with
24 respect to the mailing or service, the superior court, in its
25 discretion on motion of the offender promptly made and supported by
26 affidavit showing that the offender has suffered substantial injury due
27 to the failure to mail the copy, may set aside the order to withhold
28 and deliver.

29 **Sec. 2.** RCW 9.94A.7607 and 1991 c 93 s 8 are each amended to read
30 as follows:

31 (1) A person or entity upon whom service has been made is hereby
32 required to:

33 (a) Answer the order to withhold and deliver within twenty days,
34 exclusive of the day of service, under oath and in writing, and shall
35 make true answers to the matters inquired of in the order; and

36 (b) Provide further and additional answers when requested by the
37 department or county clerk.

1 (2) Any person or entity in possession of any property that may be
2 subject to the order to withhold and deliver shall:

3 (a)(i) Immediately withhold such property upon receipt of the order
4 to withhold and deliver;

5 (ii) Deliver the property to the appropriate clerk of the court as
6 soon as the twenty-day answer period expires;

7 (iii) Continue to withhold earnings payable to the offender at each
8 succeeding disbursement interval and deliver amounts withheld from
9 earnings to the appropriate clerk of the court within ten days of the
10 date earnings are payable to the offender;

11 (iv) Inform the department or county clerk of the date the amounts
12 were withheld as requested under this section; or

13 (b) Furnish the appropriate clerk of the court a good and
14 sufficient bond, satisfactory to the clerk, conditioned upon final
15 determination of liability.

16 (3) Where money is due and owing under any contract of employment,
17 expressed or implied, or other employment arrangement, or is held by
18 any person or entity subject to withdrawal by the offender, the money
19 shall be delivered by remittance payable to the order of the
20 appropriate clerk of the court.

21 (4) Delivery to the appropriate clerk of the court of the money or
22 other property held or claimed shall satisfy the requirement and serve
23 as full acquittance of the order to withhold and deliver.

24 (5) The person or entity required to withhold and deliver the
25 earnings of a debtor under this action may deduct a processing fee from
26 the remainder of the offender's earnings, even if the remainder would
27 otherwise be exempt under RCW 9.94A.761. The processing fee may not
28 exceed:

29 (a) Ten dollars for the first disbursement to the appropriate clerk
30 of the court; and

31 (b) One dollar for each subsequent disbursement.

32 (6) A person or entity shall be liable to the obligee in an amount
33 equal to one hundred percent of the value of the court-ordered legal
34 financial obligation that is the basis of the order to withhold and
35 deliver, or the amount that should have been withheld, whichever amount
36 is less, together with costs, interest, and reasonable attorneys' fees
37 if that person or entity fails or refuses to deliver property under the
38 order.

1 The department or county clerk is authorized to issue a notice of
2 debt pursuant to and to take appropriate action to collect the debt
3 under this chapter if a judgment has been entered as the result of an
4 action by the court against a person or entity based on a violation of
5 this section.

6 (7) Persons or entities delivering money or property to the
7 appropriate clerk of the court under this chapter shall not be held
8 liable for wrongful delivery.

9 (8) Persons or entities withholding money or property under this
10 chapter shall not be held liable for wrongful withholding.

11 **Sec. 3.** RCW 9.94A.7608 and 1991 c 93 s 9 are each amended to read
12 as follows:

13 An order to withhold and deliver or any other income-withholding
14 action authorized by this chapter may be served on the main office of
15 a bank, savings and loan association, or credit union or on a branch
16 office of the financial institution. Service on the main office shall
17 be effective to attach the deposits of an offender in the financial
18 institution and compensation payable for personal services due the
19 offender from the financial institution. Service on a branch office
20 shall be effective to attach the deposits, accounts, credits, or other
21 personal property of the offender, excluding compensation payable for
22 personal services, in the possession or control of the particular
23 branch served.

24 Notwithstanding any other provision of RCW 9.94A.760 and 9.94A.7601
25 through 9.94A.761, if the department or county clerk initiates
26 collection action against a joint bank account, with or without the
27 right of survivorship, or any other funds which are subject to the
28 community property laws of this state, notice shall be given to all
29 affected parties that the account or funds are subject to potential
30 withholding. Such notice shall be by first-class mail, return receipt
31 required, or by personal service and be given at least twenty calendar
32 days before withholding is made. Upon receipt of such notice, the
33 nonobligated person shall have ten calendar days to file a petition
34 with the department or superior court contesting the withholding of his
35 or her interest in the account or funds. The department or county
36 clerk shall provide notice of the right of the filing of the petition

1 with the notice provided in this paragraph. If the petition is not
2 filed within the period provided for herein, the department or county
3 clerk is authorized to proceed with the collection action.

4 **Sec. 4.** RCW 9.94A.7609 and 1991 c 93 s 10 are each amended to read
5 as follows:

6 (1) The department or county clerk may issue a notice of debt in
7 order to enforce and collect a court-ordered legal financial obligation
8 debt through either a notice of payroll deduction or an order to
9 withhold and deliver.

10 (2) The notice of debt may be personally served upon the offender
11 or be mailed to the offender at his or her last known address by any
12 form of mail requiring a return receipt, demanding payment within
13 twenty days of the date of receipt.

14 (3) The notice of debt shall include:

15 (a) A statement of the total court-ordered legal financial
16 obligation and the amount to be paid each month.

17 (b) A statement that earnings are subject to a notice of payroll
18 deduction.

19 (c) A statement that earnings or property, or both, are subject to
20 an order to withhold and deliver.

21 (d) A statement that the net proceeds will be applied to the
22 satisfaction of the court-ordered legal financial obligation.

23 (4) Action to collect a court-ordered legal financial obligation by
24 notice of payroll deduction or an order to withhold and deliver shall
25 be lawful after twenty days from the date of service upon the offender
26 or twenty days from the receipt or refusal by the offender of the
27 notice of debt.

28 (5) The notice of debt will take effect only if the offender's
29 monthly court-ordered legal financial obligation payment is not paid
30 when due, and an amount equal to or greater than the amount payable for
31 one month is (~~owned~~) owed.

32 (6) The department or county clerk shall not be required to issue
33 or serve the notice of debt in order to enforce and collect a court-
34 ordered legal financial obligation debt through either a notice of
35 payroll deduction or an order to withhold and deliver if either the
36 offender's judgment and sentence or a subsequent order to pay includes

1 a statement that income-withholding action under this chapter may be
2 taken without further notice to the offender.

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